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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,324	4 06/27/2001 Osamu Samuel Nakagawa	10004808-1	3635	
75	90 08/21/2002			
HEWLETT-PACKARD COMPANY Intellectual Property Administration P.O. Box 272400			EXAMINER	
			QUINTO, KEVIN V	
Fort Collins, CO	80527-2400			1
			ART UNIT	PAPER NUMBER
			2826	#7.
			DATE MAILED: 08/21/2002	77

Please find below and/or attached an Office communication concerning this application or proceeding.



## Office Action Summary

Application No.	Applicant(s)	an	
09/891,324	NAKAGAWA, OSA	NAKAGAWA, OSAMU SAMUEL	
Examiner	Art Unit		
Kovin Ovinto	2826		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply** 

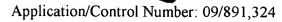
## A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.

  If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.

earned	patent term	adjustment.	See 37 CFR	1.704(0).
Status				

<ul> <li>If the period for reply specified above is less than fulfy (20 days, or the period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</li> <li>If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</li> <li>Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).</li> <li>Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</li> </ul>	
Status	
1) Responsive to communication(s) filed on <u>27 June 2001</u> .	
2a) ☐ This action is <b>FINAL</b> . 2b) ☑ This action is non-final.	
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims	
4)⊠ Claim(s) <u>1-19</u> is/are pending in the application.	
4a) Of the above claim(s) is/are withdrawn from consideration.	
5) Claim(s) is/are allowed.	
6) Claim(s) is/are rejected.	
7) Claim(s) is/are objected to.	
8) Claim(s) <u>1-19</u> are subject to restriction and/or election requirement.  Application Papers	
9) The specification is objected to by the Examiner.	
10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.	
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).	
11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner.	
If approved, corrected drawings are required in reply to this Office action.	
12) The oath or declaration is objected to by the Examiner.	
Priority under 35 U.S.C. §§ 119 and 120  13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).	
a) All b) Some * c) None of:	
1. Certified copies of the priority documents have been received.	
2. Certified copies of the priority documents have been received in Application No	
<ul> <li>3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</li> <li>* See the attached detailed Office action for a list of the certified copies not received.</li> </ul>	
14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application	n).
a)  The translation of the foreign language provisional application has been received.	
15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.	
Attachment(s)	
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) Other:	



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#### **DETAILED ACTION**

#### Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-13, drawn to a method of forming a by-pass capacitor on a multi-level metallization device, classified in class 438, subclass 957.
  - II. Claims 14-19, drawn to an on-chip by-pass capacitor, classified in class 257, subclass 532.

The inventions are distinct, each from the other because of the following reasons:

- 2. Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the second electrode can be completed by a plasma etch instead of a polishing process.
- 3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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### Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Quinto whose telephone number is (703) 306-5688. The examiner can normally be reached on M-F 8AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on (703) 308-6601. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

KVQ August 14, 2002

> NATHAN J. FLYNN SUPERVISORY PATENT EXAMINER TECHNOLOGY CENTER 2800